United Nations CMW/C/BGD/Q/1

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

List of issues in relation to the initial report of Bangladesh*

I. General information

1. Please inform the Committee about the progress made towards the adoption of the following draft instruments: the Immigration Bill (see CMW/C/BGD/1, para. 107),[1] the Export Processing Zone Labour Bill (para. 100), the rules on migration management, recruitment regulation, the migrant workers' welfare fund and the registration of jobseekers and workers (para. 28), the new Overseas Employment Policy (para. 47) and the Domestic Workers' Protection and Welfare Policy (para. 135). Please indicate how these instruments further implement the provisions of the Convention, including by providing information on specific, time-bound and measurable goals and targets in the draft policies relating to migrant workers and on provisions for their monitoring.

2. Please provide information on the scope of and the resources available for implementing the 2013 National Skills Development Policy (para. 150) in relation to migrant workers and the results achieved so far. Please also provide information on the 2013 National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals.

3. Please indicate whether the State party plans to make the declaration provided for in articles 76 and 77 of the Convention and thereby recognize the competence of the Committee to receive communications from States parties and individuals. Please also indicate whether the State party intends to ratify the following International Labour Organization (ILO) conventions, all of which affect migrant workers and members of their families: the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Private Employment Agencies Convention, 1997 (No. 181), and the Domestic Workers Convention, 2011 (No. 189).

4. Please provide additional information on the available staffing and resources allocated to the Ministry of Expatriates' Welfare and Overseas Employment for promoting, protecting and fulfilling the rights of migrant workers and members of their families under the Convention, as well as information on its monitoring activities and follow-up

* Adopted by the Committee at its twenty-fourth session (11-22 April 2016).

[1] Unless otherwise indicated, paragraph numbers refer to the initial report of Bangladesh.

procedures (paras. 31-33). Please also provide information on the human, technical and financial resources made available to the Bangladesh Human Rights Commission and on awareness-raising activities by the State party among migrant workers, in both urban and rural areas, on the right to file a complaint directly with the Commission (para. 49).

5. Please provide information on the measures taken to improve the collection of quantitative and qualitative data, disaggregated by sex, age, nationality and migration status, for use in evaluating the implementation of the Convention. Please also provide, if available, updated disaggregated statistical data and qualitative information on:

(a) Undocumented Bangladeshis who are migrant workers abroad, Bangladeshis who are migrant workers who have returned home and migrant workers in both a regular and an irregular situation in the State party, including undocumented nationals of Myanmar and foreign professionals holding employment visas who are covered by article 3 (a), (b) and (c) of the Convention;

(b) Programmes to address HIV/AIDS among migrant workers in the State party, including among returning migrant workers who are nationals of Bangladesh;

(c) Undocumented migrant workers, including nationals of Myanmar in detention in the State party, and Bangladeshis who are migrant workers detained abroad in States of employment, indicating whether such detention is immigration-related, and the number of detained migrant workers who were repatriated following an intervention by the Bangladesh Human Rights Commission (paras. 48-50);

(d) Rohingya asylum seekers detained for having entered the State party irregularly;

(e) Migrant workers and members of their families and undocumented nationals of Myanmar that have been expelled from the State party;

(f) The number of unaccompanied foreign migrant children and of children who are nationals of Bangladesh left behind by parents working abroad;

(g) The legal framework regulating private employment agencies, the number of private employment agencies in the State party recruiting migrant workers to work abroad, the number and nature of complaints against government and private agencies and the penalties and sanctions for non-compliance;

(h) Remittances received from nationals of the State party working abroad;

(i) The reported cases of trafficking in persons and smuggling of migrants and the number of investigations carried out, prosecutions initiated and sentences imposed on perpetrators (disaggregated by sex, age, nationality and type of crime). In this regard, please specifically provide additional information on the cases of prosecuted travel and recruitment agents, as well as of individual offenders mentioned in the State party's report (para. 164);

(j) The type of assistance provided to victims of trafficking and smuggling;

(k) Legal assistance services provided to nationals working abroad or in transit through third States;

(l) Compensation and financial assistance provided to families of deceased migrant workers who are nationals of Bangladesh (para. 171).

6. Please provide details about training on the Convention provided by the State party and civil society (para. 82), indicating whether the State party has conducted any specific awareness-raising and training programmes on the Convention for relevant public officials, such as law enforcement officials, embassy and consular staff, social workers, judges,

prosecutors and government officials, and specify the content of such training, if applicable. In particular, please provide details of the training provided to consular officials and labour attachés appointed to missions of Bangladesh on how to protect the rights and interests of migrant workers who are nationals of Bangladesh and who are overseas (para. 153).

7. Please provide specific information on cooperation and interaction between the State party, civil society organizations and other social partners working on migrant workers' rights in relation to the implementation of the Convention. Given that both civil society groups providing humanitarian aid and the Office of the United Nations High Commissioner for Refugees reportedly have difficulty in accessing undocumented Myanmar nationals in border regions owing to restrictions imposed by the State party, please inform the Committee about steps taken to ensure such access. Please also describe how civil society groups and other stakeholders were involved in the preparation of the initial report (para. 15 and annex I).

8. Please provide information on measures taken by the State party to strengthen migration regulation and control mechanisms to ensure that private recruitment agencies do not charge excessive fees for their services and do not act as intermediaries for abusive foreign recruiters. Please inform the Committee whether recruitment agencies that facilitate the overseas employment of migrant workers who are nationals of Bangladesh are required to be licensed in both the State party and the country of employment and whether they assume joint and solidary liability with the overseas employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including in respect of wages, disability compensation, repatriation and death, including repatriation of the bodies of deceased migrant workers. Please provide information on the contractual clauses that exempt professionals such as doctors, information technology specialists and corporate employees who are working in the State party with employment visas from the definition of migrant workers under the Convention (para. 20).

II. Information relating to the articles of the Convention

A. General principles

Articles 7 and 83

9. Please inform the Committee about concrete steps taken to amend the Labour Act of 2006 so as to include a prohibition of direct and indirect discrimination on all the grounds enumerated in the Convention (arts. 1 (1) and 7), with respect to all aspects of employment and all categories of workers, including those employed in the informal sector and domestic workers. Please provide information on the measures taken by the State party to ensure non-discrimination, both in law and in practice, against undocumented nationals of Myanmar and to address the prevalence of sexual and gender-based violence, including domestic violence, and of political harassment, social exclusion and sexual and labour exploitation, including sexual slavery, against them.

10. Please provide information on:

(a) The number and type of complaints examined by the Bangladesh Human Rights Commission, the Bureau of Manpower, Employment and Training, the Supreme Court and the State party's missions abroad (paras. 88-89 and 154) in the past five years and their outcome, disaggregated by sex;

(b) Whether legal assistance was provided;

(c) Any redress, including compensation, provided to the victims of such violations;

(d) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

11. Please inform the Committee about the result of complaint No. 119/22/08/1194 of the Bangladesh Human Rights Commission (para. 49). Please also inform the Committee about measures taken to ensure that undocumented nationals of Myanmar trying to access justice for violations of their rights are not punisned for illegal entry under the Foreigners Act of 1946.

B. Part III of the Convention

Articles 8-25

12. Please provide information on the steps taken to reduce child labour and eliminate the worst forms of child labour, with a particular focus on migrant children.

13. Please describe how due process safeguards are applied in relation to undocumented nationals of Myanmar being investigated, arrested, detained and expelled for criminal offences and administrative infractions, including immigration-related matters. Please indicate whether the State party has taken any measures to provide for non-custodial alternatives to detention. Please inform the Committee about measures to guarantee non-refoulement and protect undocumented nationals of Myanmar.

14. In addition to the information in paras. 108 and 153-154 of the State party's report, please provide specific examples of the activities of and services provided by embassies and consulates to migrant workers and members of their families in the countries of employment, including in relation to detention and expulsion cases. Given the growing percentage of women of Bangladesh nationality among migrant workers, please provide information on efforts made to increase the gender-sensitivity of staff dealing with labour issues in embassies and consulates of the State party. Please provide data disaggregated by sex on staff working in those embassies and consulates.

Articles 29 and 33

15. Please provide information on measures taken to ensure that children born prior to January 2009 from a mother of Bangladesh nationality and a father not of Bangladesh nationality, and whose father cannot transmit citizenship, have the right to Bangladesh nationality. Please also provide information on the measures taken to ensure the registration at birth of children of undocumented nationals of Myanmar in the State party.

16. Please provide more details, including statistical data, about the pre-departure programmes for the State party's outbound migrant workers organized by the Bureau of Manpower, Employment and Training and about the provision of information on their rights and obligations in the State of employment (paras. 119-122). In addition to the information in paras. 124-125, please explain how the State party ensures that private recruitment agencies provide adequate pre-departure information to migrant workers. Specifically, please provide information on pre-departure briefings on HIV/AIDS prevention, testing and medical treatment available for migrant workers and their spouses through the Bureau of Manpower, Employment and Training and private recruitment agencies.

C. Part IV of the Convention

Articles 47-48

17. Please provide more details on the measures taken to facilitate the right of migrant workers who are nationals of Bangladesh to transfer their earnings and savings from the State of employment to Bangladesh (para. 177), as well as information on the applicable legal framework in place to ensure this right. Please inform the Committee about fees charged for the transfer of earnings and savings. Please also provide information on how the bilateral and multilateral agreements concluded in the area of migration, including temporary labour programmes, guarantee protection and social security and exemption from double taxation.

D. Part VI of the Convention

Article 64

18. Please specify how the bilateral agreements signed with Iraq, Jordan, Kuwait, Libya, Malaysia, Maldives, Oman, Qatar, the Republic of Korea and the United Arab Emirates, and the agreement with the Hong Kong-based recruiting agents' association, ensure the protection of the rights of migrant workers and members of their families under the Convention, including by guaranteeing safe working conditions and access to justice (paras. 52-53). Please provide more information on the two bilateral arrangements that seek to protect the rights and well-being of the State party's female migrant workers (para. 52). Specifically, please inform the Committee about steps taken in terms of cooperation with States employing migrant domestic workers who are nationals of Bangladesh so as to ensure the protection of their rights through frameworks and agreements guaranteeing, inter alia, standard employment contracts, labour inspections and access to remedies and other services.

Article 67

19. Please provide information about the results of the projects and initiatives undertaken in cooperation with international organizations such as ILO, the International Organization for Migration and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) regarding the rehabilitation and reintegration of migrant workers of Bangladesh nationality who are returning from destination countries (para. 158), including the number of persons (disaggregated by sex, age, migration status and country from which they returned) who have benefited from those projects and initiatives. Please inform the Committee specifically about measures taken to combat the social stigmatization of migrant women workers of Bangladesh nationality who are considered to be in need of moral rehabilitation for having been exposed to outside influences while abroad.

Article 68

20. Please provide information on the results of the work done by the Vigilance Task Force to prevent and stop the abusive and exploitative recruitment of migrant workers or their unlawful transfer to foreign employers (para. 162). Please inform the Committee about the various schemes in place to facilitate the detection of victims of human trafficking abroad, to bring them back to the country and to help them reintegrate into society and families, and about the number of repatriated victims (para. 165). Please also provide information on rehabilitation programmes available for victims of trafficking and on the measures taken, including awareness-raising and capacity-building for law enforcement

officials, to ensure that victims of trafficking are not penalized under the Foreigners Act of 1946.

21. Please provide information on training programmes provided to the judiciary, law enforcement officials, border guards and social workers in all parts of the State party on how to identify victims of trafficking and on efforts to systematically compile disaggregated data on trafficking in persons and to bring perpetrators to justice.

22. In relation to migrants falling victim to organized criminal groups involved in smuggling, please provide information on:

(a) Efforts made to prevent such situations;

(b) Measures taken to assist and protect migrants who fall victim to organized criminal groups involved in smuggling;

(c) Training programmes provided to the judiciary, law enforcement officials, border guards and social workers in all parts of the State party on protecting the rights of migrants who fall victim to organized criminal groups involved in smuggling;

(d) Measures to combat the root socioeconomic causes of smuggling of migrants, such as poverty and underdevelopment.